ANNUAL REPORT 2011

Labour Relations Board

BRITISH COLUMBIA

LABOUR RELATIONS BOARD

2011
ANNUAL REPORT

Ministry of Labour, Citizens' Services and Open Government
Honourable Margaret MacDiarmid, Minister

April 11, 2012

The Honourable Margaret MacDiarmid
Minister of Labour, Citizens' Services and Open Government
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Honourable Minister:

RE: Labour Relations Board 2011 Annual Report

I am pleased to forward the 2011 Annual Report of the Labour Relations Board for the year ending December 31, 2011. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,

LABOUR RELATIONS BOARD

Brent Mullin
Chair

Enclosure

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CHAIR'S MESSAGE

Over the last several years the Labour Relations Board has met with delegations of trade union representatives from Asia, in particular the Republic of Korea and the People's Republic of China. The meetings have been of interest on a number of bases.

In 2011, there was a particularly significant meeting when we met with a delegation from the All-China Federation of Trade Unions (ACFTU). The meeting was noteworthy from a number of perspectives.

First, the fact that such meetings are taking place here within our jurisdiction is noteworthy from a larger historical perspective. For the vast majority of its lengthy history, China has been remarkably self-contained and even insular. Obviously, however, that is not the case currently with China's emergence as an international economic and trading power. Our meeting with the ACFTU here in British Columbia is one small example of China's change of focus.

Second, the meeting was flattering and immensely humbling at the same time. Perhaps that can best be explained as follows. British Columbia is often described as a small, open, trading economy and jurisdiction. We have a population of approximately 4½ million people in British Columbia.

The ACFTU has approximately 239 million members and is growing. The difference in size is literally hard to comprehend.

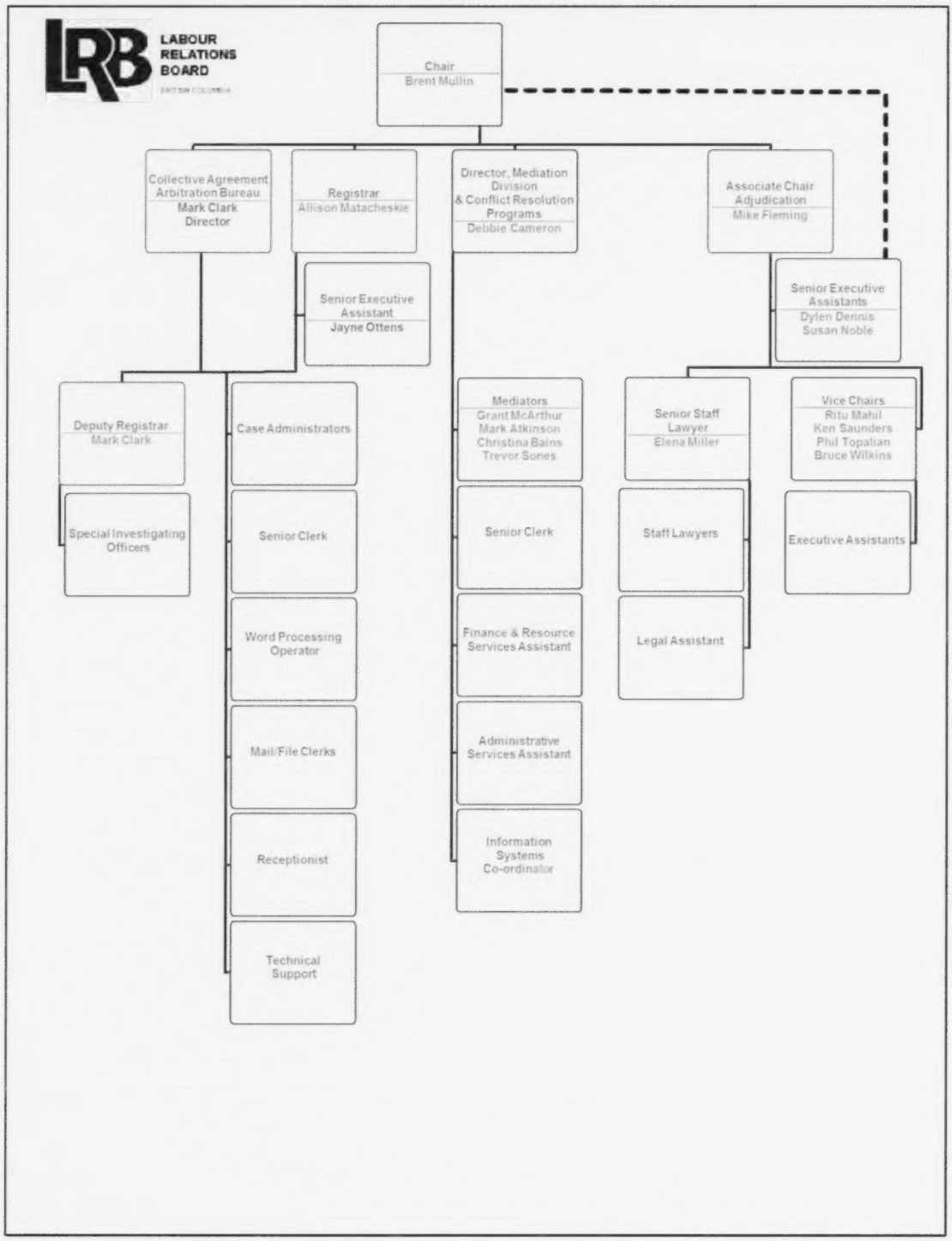
Yet the ACFTU was keen to meet with us and learn about the approach to labour relations matters in our jurisdiction. Of note was what they were in particular interested in. Early in our presentation, the delegation leader specifically requested that we address the 2002 amendments to the *Labour Relations Code*. When we did so, it was clear that the delegation was in particular interested in our focus on a mediative approach to labour relations matters and the need for labour relations to be a part of the competitiveness of an enterprise. Both are matters of focus within our current Code, arising from the critical amendments in 1993 and 2002 (see the summary of the amendments in the Chair's Messages in the 2004-2006 Annual Reports).

It also became clear in our discussions that the delegation was interested in the potential timelines Regulation for the Board, which would ensure the timely resolution of labour relations disputes handled by the Board.

In all these matters it would appear there are shared concerns in regard to having effective labour relations in the workplaces of our respective jurisdictions, which otherwise may seem so unrelated and removed from each other.

We look forward to more such meetings and the exchange of information, understanding, and respect they yield.

Brent Mullin
Chair


LABOUR RELATIONS BOARD
BRITISH COLUMBIA
Chair
Brent Mullin
Collective Agreement Arbitration Bureau
Mark Clark
Director
Registrar
Allison Matacheskie
Director, Mediation Division & Conflict Resolution Programs
Debbie Cameron
Associate Chair Adjudication
Mike Fleming
Senior Executive Assistant
Jayne Ottens
Senior Executive Assistants
Dylen Dennis
Susan Noble
Deputy Registrar
Mark Clark
Special Investigating Officers
Case Administrators
Senior Clerk
Word Processing Operator
Mail/File Clerks
Receptionist
Technical Support
Mediators
Grant McArthur
Mark Atkinson
Christina Bains
Trevor Sones
Senior Clerk
Finance & Resource Services Assistant
Administrative Services Assistant
Information Systems Co-ordinator
Senior Staff Lawyer
Elena Miller
Staff Lawyers
Legal Assistant
Vice Chairs
Ritu Mahil
Ken Saunders
Phil Topalian
Bruce Wilkins
Executive Assistants

I. THE BOARD

A. GENERAL OVERVIEW

The *Labour Relations Code* (the "Code") establishes the Labour Relations Board. The statute grants the Board exclusive jurisdiction to hear and determine applications and complaints under the Code and to make orders under the Code that it deems appropriate.

The Code governs all aspects of collective bargaining amongst the provincially-regulated employers and employees to whom the Code applies. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents. In addition to administering and enforcing the Code, the Board is charged with responsibility for labour relations matters under several other statutes.

In carrying out its mandate, the Board must have regard to the manner in which it performs its duties under the Code. These are set out in Section 2:

2. The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that
(a) recognizes the rights and obligations of employees, employers and trade unions under this Code,
(b) fosters the employment of workers in economically viable businesses,
(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,
(d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,
(e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,
(f) minimizes the effects of labour disputes on persons who are not involved in those disputes,
(g) ensures that the public interest is protected during labour disputes, and
(h) encourages the use of mediation as a dispute resolution mechanism.

In order to accomplish this expansive mandate, the Code establishes the Board's administrative structure. Section 115(1) of the Code provides that the Board shall consist of a Chair, Vice Chairs, and as many other members, equal in number, representative of employers and employees respectively, as shall be considered necessary and appointed by the Lieutenant Governor in Council. The Chair is the head of the Board. The Chair designates one of the Vice Chairs to act as Associate Chair, Adjudication, one to act as Associate Chair, Mediation and one to act as the Registrar. The Chair, along with the Associate Chair, establishes panels to proceed with applications or complaints under the Code. Panels may be composed of the Chair, Vice Chair(s), and members in accordance with Section 117(5) of the Code.

B. OFFICE OF THE CHAIR

As head of the Board, the Chair has the ultimate responsibility to oversee the administration of the Board and the Code. The Associate Chair of Adjudication, Associate Chair of Mediation, and the Registrar report directly to the Chair. The Chair may sit as a panel, either with or without Vice Chairs and/or other members. The Chair presides at proceedings of the Board and on all panels of which the Chair is a member.

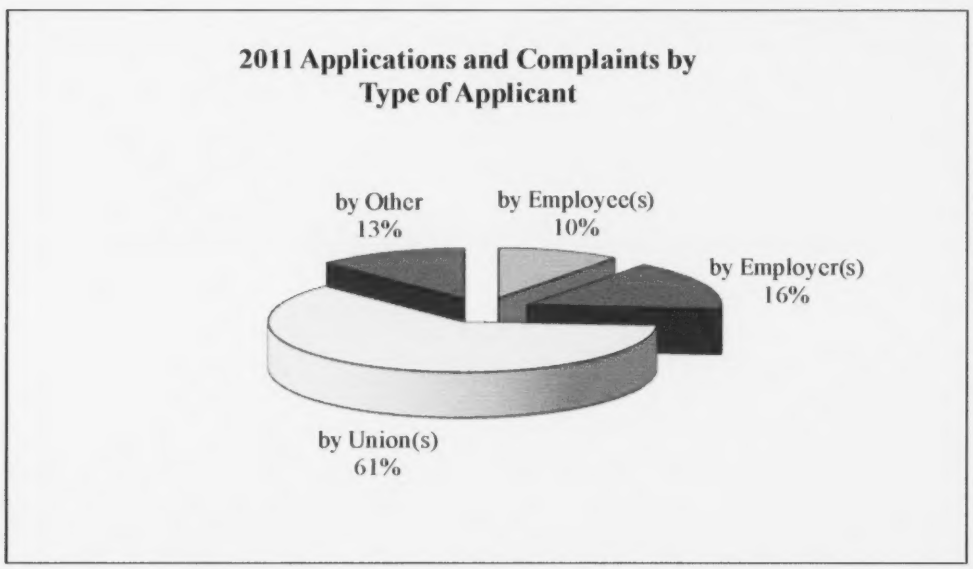
C. REGISTRY

Every application received by the Board is processed through the Registrar's office. Administration and progress of each case is overseen by the Registry until the matter is finally disposed of. Three Case Administrators are responsible for initiation of applications and the conduct of files.

Processing of all applications through the Registry enables the Board to utilize computerized case monitoring/management to achieve effective and speedy processing of cases.

Legislated time frames, combined with established Board policies and procedures, result in approximately 52 percent of applications receiving expedited processing. Part 5 applications can require adjudication within 24 hours. Certain unfair labour practice complaints require commencement of a hearing within three days. Others such as certification and decertification applications are normally processed within approximately one week of receipt.

On certification and decertification applications, Case Administrators are responsible for completing all necessary procedures before files are forwarded to adjudication for a hearing. This includes written notification to parties, initiation of investigations by Industrial Relations Officers (IROs) and requests for written submissions. Accordingly, administrative staff must be familiar with legal principles and Board case law and policies.



Informal dispute resolution is an important part of the Board's operations and is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases requiring immediate informal dispute resolution are assigned to Special Investigating Officers (SIOs). The vast majority of their caseload involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts and picketing.

Assistance by SIOs through the informal process can be obtained by the parties or the adjudicator at any stage of proceedings, including case management meetings and after formal hearings have commenced.

These informal settlement discussions are on a "without prejudice" basis. That is to say, a party cannot subsequently raise what was said in such discussions in any formal proceeding. However, settlement agreements reached on issues during the informal proceedings are binding on the parties and will be enforced by the Board.

The informal process achieves a very high success rate. As shown in Table 9 of the statistical tables, approximately 66 percent of unfair labour practice complaints and Part 5 complaints referred to SIO's are settled.

This informal dispute resolution process helps the Board and the parties make more effective use of resources and personnel, and substantially reduces the time needed to conclude cases, thus reducing expenditures. In addition, by fostering negotiated settlements between the parties, the process furthers the purposes of the Code by minimizing, where possible, decisions imposed by a third party.

Similar valuable services are provided throughout the Province by Industrial Relations Officers (IROs) of the Employment Standards Branch of the Ministry of Labour, Citizens' Services and Open Government. For example, every application for certification or decertification requires a report by an IRO.

Both SIOs and IROs also provide considerable assistance through written reports which may involve fact finding, narrowing the issues to be adjudicated, and interviewing individual employees and employers on a wide variety of issues.

In addition to administering the Registry, the Registrar, as a Vice Chair of the Board, may chair or sit as a member of an adjudication panel, and as a sole panel member, may dispose of certain applications where summary disposition is appropriate. This leads to the speedy disposition of many types of applications.

The Deputy Registrar has responsibility for administering the informal process and also deals with Section 12, duty of fair representation applications, most of which require additional information before the Registry can process them.

Section 122(3) of the Code requires the Board to provide an Information Officer. The Information Officer's responsibilities to date have encompassed two main areas: handling incoming inquiry calls and preparing written material for the public and the labour relations community.

The Information Officer deals with approximately 4000 phone calls and email enquiries per year from employers, unions, individual employees and media representatives.

The Board's publications include the *Employer's Guide to the Union Certification*

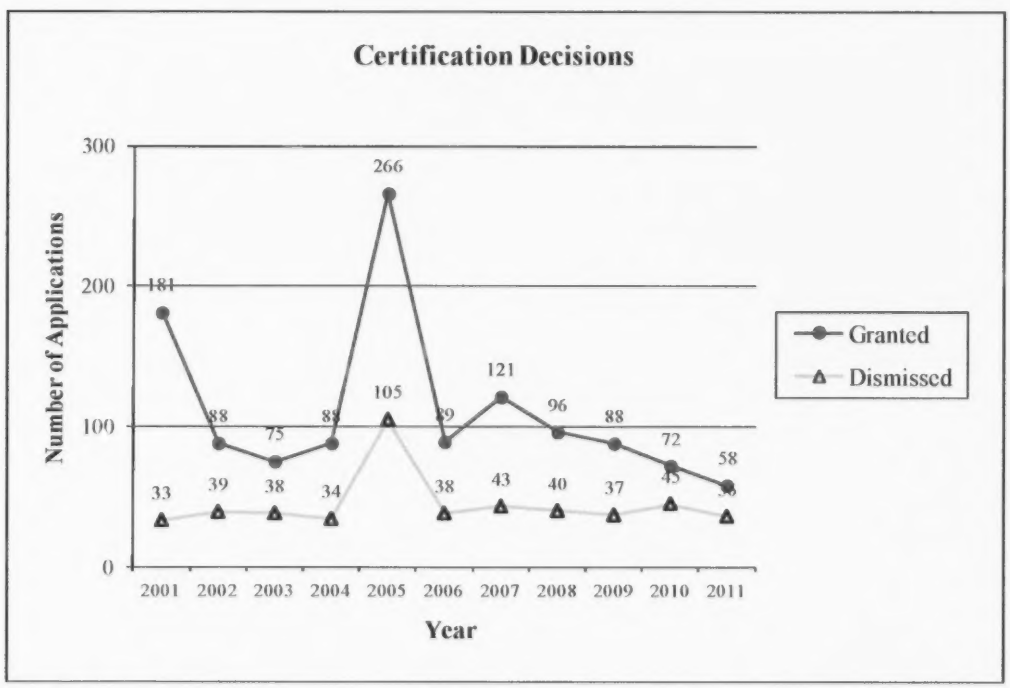
Process. This plain language guide is sent to employers along with the Notice of Certification Application, to clarify their rights and responsibilities under the Code. The same day the Information Officer sends a letter to employers who have not previously been certified, offering to answer any questions about the Code or certification procedures before the hearing date or on the morning of the certification hearing.

A companion publication, *Questions and Answers for Employees Regarding the Union Certification Process,* has been developed following an extensive consultation process with the labour relations community. It provides information to employees in plain language concerning the certification process.

Another publication prepared by the Information Officer, the Board's Practice Manual, has been in use since April, 1995.

The Board's website was officially launched in late 1999. The site includes information concerning the Board's processes, hearing schedules and recent Board decisions. The site is a work-in-progress and the Board welcomes input from the public to help improve the information provided. The website address is www.lrb.bc.ca

The Board has also prepared a *Section 12 Guide* explaining the Board's approach to Section 12 complaints. It is available on our website under "Information Bulletins" or upon request in written form.



D. COLLECTIVE AGREEMENT ARBITRATION BUREAU

Effective July 5, 2002, and pursuant to the *Labour Relations Code Amendment Act, 2002*, the Collective Agreement Arbitration Bureau was brought under the administration of the Labour Relations Board. Pursuant to Section 83(1) of the Code, the Chair designated the Board's Deputy Registrar, Mark Clark, as Director of the Bureau.

The primary function of the Bureau is to appoint arbitrators where one of the parties seeks an expedited form of arbitration, where the parties seek consensual mediation/arbitration, or where there is a failure to appoint or constitute an arbitration board by one of the parties. In addition, the Bureau also appoints settlement officers to assist the parties in resolving grievances filed under collective agreements. The Labour Relations Board offers the services of its Special Investigating Officers and Mediators as settlement officers to assist the parties in resolving the grievances prior to an arbitrator's appointment by the Bureau.

Since July 5, 2002, applications filed with the Bureau for the appointment of arbitrators and/or settlement officers are processed through the Registry of the Labour Relations Board. The Registry's Case Administrators are generally responsible for the day-to-day administrative processing of the applications, with the Director responsible for the selection/appointment of the arbitrator in each case.

The Bureau, through its Director, must also maintain a register of arbitrators. A Joint Advisory Committee, as appointed by the Minister, must advise the Director on the training and education of arbitrators and settlement officers, research and publication of information about arbitrations, and establishment and maintenance of a register of arbitrators.

The Joint Advisory Committee comprises two representatives of unions, two representatives of employers and two representatives of arbitrators, along with the Director who is the chair of the committee.

E. ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications brought under the Code. The Division also attempts wherever possible to settle disputes without formal adjudication through case management and alternative dispute resolution.

Issues requiring adjudication include applications for the acquisition and termination of bargaining rights; unfair labour practice complaints; duty of fair representation complaints by individual employees; common and successor employer applications; reviews of arbitration awards; complaints respecting strikes, lockouts, picketing and other conduct regulated by Part 5 of the Code, including the replacement worker and essential services provisions; and applications for reconsideration of Board decisions.

On average, 706 cases per year were adjudicated over the past 6 years. A comparison of cases assigned for adjudication and adjudicated for the past several years is set out in the accompanying table. In 2011, the Adjudication Division published 237 decisions. Summaries of some of the

noteworthy decisions can be found in Section III of this Report.

A major portion of the Division's workload continues to be adjudication of expedited applications (including certifications, unfair labour practice and Part 5 applications). During 2011, expedited applications comprised about 62 percent of cases received in the Board's major adjudication areas.

As of December 31, 2011, the Board had 4 Vice Chairs and 3 Staff Lawyers.

	2003*	2004*	2005*	2006*	2007*	2008*	2009*	2010	2011
Cases Assigned for Adjudication	890	1,091	823	735	815	638	679	634	734
Cases Adjudicated	889	922	1,006	781	782	664	672	642	697
Cases Outstanding at Year End	240	409	226	180	213	187	194	186	223

* Figures adjusted after publication of *LRB Annual Report* for noted year(s).

F. MEDIATION DIVISION

The Mediation Division offers assistance in collective bargaining, facilitation of joint sessions which enable employers and trade unions to improve their working relationship and collective bargaining information. The head of the Mediation Division is the Director of Mediation and Conflict Resolution Services.

Information about the services available from the Mediation Division can be obtained via the Board's website (www.lrb.bc.ca). This information includes various practice guidelines on the sections of the Code administered by the Mediation Division. In 2011, the Mediation Division developed a series of videos to assist community stakeholder awareness of the services offered by the Mediation Division. It is anticipated the videos will be posted on the Board's website in 2012.

Collective Bargaining Mediation (Sections 55 and 74)

Collective bargaining mediation involves assistance to employers and unions to conclude the terms of first or renewal collective agreements. Mediators utilize a variety of techniques in an effort to assist the parties to reach mutual agreement. In certain cases, the mediator may issue recommendations for settlement.

The majority of mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements. A lesser number of first collective agreement mediator appointments are made under Section 55.

Section 55 is specific to first collective agreements and confers on the mediator greater responsibility for mediation outcomes within tightly prescribed time frames. Access to this provision can only be gained if the trade union has taken a

strike vote and a majority of the employees have voted in favour of a strike.

Board mediators were appointed to 102 cases under Section 74 and 7 cases under Section 55. Mediators were also involved in 35 cases carried over from previous years.

Essential Services (Section 72)

The mediation of essential services in certain disputes involving the health, safety or welfare of the residents of British Columbia is also part of the mandate of the Mediation Division.

In anticipation of March 31, 2012, the expiry of Health Care Collective Agreements with HEABC, the Mediation Division commenced consultations with the affected parties in October. Since that date regular meetings with a representative group from each of the Bargaining Associations and HEABC have been scheduled to guide the process of finalizing essential service levels.

Owing to significant changes in the delivery of health care services in BC it is expected that the process will be more complex than in the past.

Conflict Management

The Mediation Division provides conflict management initiatives, not only in keeping with its mandate under the Code, but also with a view to designing individualized and relevant programs. The focus of the programs places greater emphasis on the analysis of conflict and its ongoing management in the workplace.

At the joint request of employers and trade unions, the Mediation Division consults with the parties in an effort to understand the nature and role of conflict in the parties' organization. Current methods of dispute resolution are also examined in the context of the organizational culture within which they operate. The Mediation Division works with the stakeholders to design and implement conflict management processes that focus on systemic change.

Guidelines used in the design process include: stakeholder participation, the adoption of preventative methods of alternative dispute resolution including training in interest based problem solving, the use of interest based and rights based processes, and promotion of dispute resolution throughout all levels of the organization. Openness and broad-based participation are encouraged and emphasis is also placed on the importance of feedback and continuous self-evaluation.

Relationship Enhancement

One of the forums for exploring conflict and designing conflict management systems has been the Relationship Enhancement Program "REP". The program which was originally designed as a two-day exploratory retreat has been refocused to place greater emphasis on skills in effective communication and interest based problem solving.

In a preliminary assessment, the Mediation Division determines if the parties are committed to make the changes needed in their relationship to foster a more positive climate in the workplace. The assessment is conducted through various forms of information gathering, including confidential interviews, meetings, surveys, and/or focus group

discussions. Following the initial assessment, a representative sampling of the stakeholders attend a two or three-day session conducted away from the workplace. Two mediators normally facilitate the session. Participants receive skills training, identify conflicts affecting their relationship, and collectively develop strategies to address and manage the identified conflicts. These strategies take the form of written action plans with specific goals, time frames for achieving the goals and assignment of specific individuals who are responsible for ensuring that action plans are carried out.

The program has been modified to place greater emphasis on monitoring and follow up, based on research gathered in cooperation with Dr. Tom Knight at the UBC Sauder School of Business.

Labour Management Consultation Committees

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the cooperative resolution of workplace issues. Using some of the same conflict management techniques described above, the Mediation Division offers assistance to employers and unions in meeting this obligation. Assistance is offered for the establishment of new committees and/or improvement in the effectiveness of existing committees. These sessions are usually scheduled for half a day to a maximum of one day, depending on the needs of the parties.

Mediation Process Workshop

Based on broad consultations with the Labour Relations Community for the purpose of exploring avenues to enhance problem solving capacity, the Mediation Division developed a three-day workshop curriculum on mediation process.

The workshop's foundation is based on a collaborative learning model featuring multiple perspectives on subject material. Sessions were held in January and November of 2011. Equal numbers of management and union representatives registered and given demand further sessions are anticipated.

The curriculum addresses the following learning outcomes:

- Enhanced problem solving by understanding the role of perception in an individual's sense of procedural justice.
- Identification of skills and strategies needed to develop and model to improve trust and build rapport.
- Identification of greater opportunities for settlement using problem solving strategies and methods.
- Understanding how cognitive biases and group dynamics impede opportunities for settlement.
- Greater confidence in managing emotionally charged conflicts by developing the skills and attributes needed to facilitate productive settlement discussions.
- Effective preparation for and utilization of the mediation process.

G. ADMINISTRATION

Information Systems

The principal computer applications contained on the in-house computers run in the following areas: case management, word processing, office automation and end user computing, statistical collection and distribution, and computer aided research.

Finance and Administration

The Finance and Administration Department is responsible for human resource matters including recruitment, payroll and benefits administration, financial management including budget, accounts payable/accounts receivable and is also responsible for all security and facilities matters.

Office and Technical Support

All Board departments are ably assisted in the performance of their duties by various office and technical support staff. These include technical support persons, word processors, executive assistants, and administrative support personnel.

II. BOARD MEMBERS AND MEDIATORS

As of December 31, 2011, the Board consisted of the following members:

EXECUTIVE

BRENT MULLIN, *Chair*

Brent Mullin's education includes a B.A. from the University of Victoria, an M.A. from Queen's University at Kingston, Ontario, and an LL.B. from the University of British Columbia. From 1983 to 1992 he practised labour relations, employment and human rights law in Vancouver, British Columbia at Russell & DuMoulin (now Fasken Martineau). From 1992 to 1998 he served as a Vice Chair at the British Columbia Labour Relations Board, then returned to the practice of labour law at Fasken Martineau DuMoulin. In January 2002, he was appointed Chair of the British Columbia Labour Relations Board and in August 2002, he was also appointed Chair of the Employment Standards Tribunal.

MICHAEL FLEMING, *Associate Chair (Adjudication)*

Michael Fleming obtained a B.A. from Simon Fraser University in 1978 and worked with the Ministry of Human Resources as a social worker until 1983. He then worked for the Canadian Farmworkers Union appearing before a number of tribunals and courts on behalf of the members. He received an LL.B. in 1988 from the University of British Columbia and then articled and practised law with the firm of Rush, Crane & Guenther until 1990. From 1990 to his appointment to the Labour Relations Board as Vice Chair in 1997, he was employed by the BCGEU holding several positions and appearing before various tribunals and arbitrators on behalf of the Union and its members. He was appointed as the Associate Chair in the fall of 2002.

ALLISON MATACHESKIE, *Vice Chair and Registrar*

Allison Matacheskie received her LL.B from the University of Ottawa in 1989. She moved to British Columbia and practiced labour law exclusively representing unions with the exception of two periods when she practiced criminal law. In 1992 she was crown counsel prosecuting at the provincial court level and in 2002, she again worked for the Ministry of Attorney General as a special assignment prosecutor. In 2004, she was appointed as a Vice Chair and since February 2010, she has been the Registrar of the Labour Relations Board.

VICE CHAIRS

RITU MAHIL, *Vice Chair*

Ritu Mahil received BA, LL.B., and M.P.A. degrees from the University of Victoria. Ritu worked at the Labour Relations Board in 2000 on a special project regarding the Duty of Fair Representation complaint process. She summered at Victory Square Law Office and articled at Fiorillo Glavin Gordon, a labour law firm exclusively representing unions. She was called to the Bar in 2002. Ritu has been an instructor with the Labour Studies Programme at Capilano College where she instructed union stewards, business agents, and executive officers in various labour law and labour relations matters. She has also presented at a number of workshops through Lancaster House. Ritu was in-house legal counsel to the Health Sciences Association from 2002 to May 2007. Ritu was appointed as a Vice Chair in May 2007.

KEN SAUNDERS, *Vice Chair*

Ken Saunders obtained a Bachelor of Arts degree from Simon Fraser University in 1987 and a Bachelor of Law degree from the University of British Columbia in 1990. Following graduation, he acted as Assistant Director of the Hospitality Industrial Relations Employers' Association where he was responsible for grievance arbitration and Labour Relations Board matters. In 1996, he joined the Community Social Services Employers' Association until his appointment as a Vice Chair in October 2000. At CSSEA he headed the Dispute Resolution and Research Services Department and acted on behalf of member agencies in Labour Relations Board, Employment Standards, Human Rights and collective agreement arbitration proceedings. On October 11, 2000, Ken was appointed as a Vice Chair of the Labour Relations Board.

PHILIP TOPALIAN, *Vice Chair*

Philip Topalian received a law degree from the University of British Columbia in 1977 and practiced law from 1978 to 1980. Philip was appointed to the position of Labour Relations Officer in the Provincial Government in 1989, holding the position of Senior Labour Relations Officer with the Public Service Association since 1995. Philip has extensive experience in negotiations as well as appearing as counsel before a variety of employment related tribunals. He was appointed as a Vice Chair in October 2005.

BRUCE WILKINS, *Vice Chair*

Bruce Wilkins was introduced to labour relations while studying at the University of Toronto for his B.A. in philosophy. While attending the University of Toronto and working at the library, he became a steward and then the Chief Steward of CUPE Local 1230. After obtaining his B.A. he went to law school and graduated from Queens University Law School in 1997. He articled at Victory Square Law Office, a firm which exclusively represents unions, and was called to the Bar in 1998. He worked for two years as Crown Counsel in traffic and criminal prosecutions. He returned to the labour relations community as in-house counsel for the Health Sciences Association of British Columbia, representing the union in arbitrations, Labour Relations Board proceedings and professional discipline hearings. He was appointed as a Vice Chair in May 2007.

MEDIATORS

DEBBIE M.L. CAMERON, *Director, Mediation Division and Conflict Resolution Programs*

Debbie Cameron is the Director of Mediation and Conflict Resolution Programs at the BC Labour Relations Board. Ms. Cameron started at the LRB in 1994 as a Mediator, and in 2007, became the Director of Conflict Resolution Programs. Ms. Cameron assumed responsibility for the Mediation Division on February 1, 2010. Prior to the LRB, Ms Cameron was the Coordinator of Hospitals for the B.C. Nurses' Union responsible for collective agreement negotiation and administration covering approximately 17,000 nurses in BC. Ms. Cameron has a Certificate in Conflict Resolution from the Justice Institute of British Columbia, a Certificate in Intercultural Studies from the University of British Columbia, an M.A. in Conflict Analysis and Management from Royal Roads University, and a Provincial Instructor Diploma from Vancouver Community College.

MARK ATKINSON, *Mediator*

Mark Atkinson was a staff representative with the Hospital Employees' Union from 1981 to 1995 when he joined the Labour Relations Board as a Mediator. In 2004, Mark joined Federal Mediation and Conciliation Services as a Mediator. Mark was also employed by the Interior Health Authority as the Associate Director of Human Resources prior to going into a private mediation/arbitration practice for three years. Mark rejoined the Board in January 2008.

GRANT McARTHUR, *Mediator*

Grant McArthur graduated from the University of British Columbia in 1973. He worked for the Hospital Employees' Union for approximately five years. He then joined the Labour Relations Board as a Special Investigating Officer in 1980 and left to work for Canada Post in late 1984. Grant joined B.C. Rail in 1986, where he worked in labour relations and as Manager of Personnel Services for three years prior to returning to the Board in 1992.

CHRISTINA BAINS, *Mediator*

Christina Bains is a Mediator with the British Columbia Labour Relations Board. Christina has a B.A. in Sociology from Simon Fraser University and a Human Resources Post-Diploma from the British Columbia Institute of Technology. Christina spent several years working in Employee Relations for B.C. Ferries providing direct support to approximately 1,000 employees, facilitating workshops as well as developing outreach initiatives to build relationships with various public and private sector groups on Vancouver Island and the mainland to support province wide recruitment. Christina has also spent some time with the British Columbia Post Secondary Employers' Association, the Health Employers Association of British Columbia and the British Columbia Government Employees' Union where she was involved in several public sector and private sector negotiations.

TREVOR SONES, *Mediator*

Trevor Sones is a Mediator with the B.C. Labour Relations Board. Trevor has an Honours B.A. in Criminology with a concentration in Law from Carleton University, in addition to an M.A. in Dispute Resolution from the University of Victoria. While specializing in the field of Alternative Dispute Resolution, Trevor has published a book and a peer-reviewed journal article on the role of conflict and conflict resolution processes.

III. HIGHLIGHTS OF BOARD DECISIONS

In 2011, the Adjudication Division published 237 numbered decisions. The following are summaries of some noteworthy decisions issued during the year. These summaries are provided for interest only, and they do not constitute legal or authoritative interpretations of the decisions in question. The full text of these and other Board decisions are available on its website (www.lrb.bc.ca).

Ansan Industries Ltd. (Ansan Traffic Control) and Lanetec Traffic Control Inc., BCLRB No. B1/2011 - Where there are two or more unions involved, the Board gives considerable weight to the presence of competing bargaining rights in determining whether there is a labour relations purpose to a common employer declaration under s. 38 of the Code.

Pedre Contractors Ltd., BCLRB No. B10/2011 - The Board refused to exercise its discretion to permit a union to withdraw its s. 19 application after the union discovered it lacked threshold support. The union failed to provide submissions or particulars demonstrating that there was a labour relations purpose supporting withdrawal and that the union exercised due diligence in ascertaining the boundaries of the bargaining unit. The Board denied the union's request to provide written submissions rather than address the issue at the hearing given the expeditious nature of the application and that the withdrawal application should have been reasonably anticipated.

Supremex Inc. (Innova/PNG Division), BCLRB No. B29/2011 (Leave for Reconsideration of BCLRB No. B19/2011) - The original panel of the Board ordered a vote under s. 35(4) of the Code to determine which union continued to represent the employees when the employer merged two plants. The panel rejected the argument that the merger amounted to an intra-corporate transfer, finding the merger was inextricably linked to the preceding successorship. The reconsideration panel agreed with the original decision, noting to find otherwise would produce an artificial outcome, prefer form over substance, and defeat the purpose and specific provisions of the Code with respect to successorship.

Pacific Pallet Ltd., BCLRB No. B34/2011 (Leave for Reconsideration of BCLRB No. B210/2010) - The reconsideration panel confirmed the Board's approach to admissibility of collective bargaining evidence is still as set out in *Overwaitea Food Group*, BCLRB No. B278/96. The panel upheld the original decision overturning and remitting an arbitration decision. The arbitrator did not admit collective bargaining evidence that took place in a joint session meeting in the presence of a mediator contrary to the policy approach in *Overwaitea* and did not provide the parties with an opportunity to make submissions on admissibility. There was no basis in the decisions under review upon which to refuse to admit the evidence given that evidence at a joint session meeting with the mere presence of a mediator is *prima facie* admissible under *Overwaitea*.

Simpe 'Q' Care Inc. (Inglewood Care Centre and Pine Grove Care Centre), BCLRB No. B54/2011 (Leave for Reconsideration of BCLRB No. B207/2010) - Unless the context and position of the employer during collective

bargaining indicates it is unable to pay, as opposed to unwilling to pay, the obligation of financial disclosure does not arise.

Cove Tops Limited, BCLRB No. B62/2011- Applying the guiding principles in *Fletcher Challenge Canada Limited,* BCLRB No. B255/97, the Board granted monetary damages to the union for the employer's use of replacement workers in violation of s. 68 of the Code.

Shahzad Mansoory, et al., BCLRB No. B69/2011 (Leave for Reconsideration of BCLRB No. B215/2010) - The Board has jurisdiction on reconsideration to add a person as a party pursuant to s. 140(n) of the Code.

Vancouver Island University, BCLRB No. B72/2011 - The Board refused to exercise its discretion to interfere with the perimeter picketing at Vancouver Island University campus. The need for public access was not as high as in *University of British Columbia,* BCLRB No. B328/2004 (Leave for Reconsideration of BCLRB No. B409/2003) given the different nature of amenities and services available to the public at each campus.

Gateway Casinos and Entertainment Limited, dba Lake City Casinos, BCLRB No. B80/2011 - The Board held surveillance operators employed at a casino were not excluded from the definition of "employee" under the Code on the basis of employment in a confidential capacity in matters relating to personnel. Surveillance operators were not found to have regular and substantial access to confidential personnel information, exercise meaningful judgement with respect to such information, nor have duties that aligned them with management.

The Government of the Province of British Columbia, BCLRB No. B89/2011 (Leave for Reconsideration of BCLRB No. B31/2011) - It is not the task of the Board under ss. 99 or 141 of the Code to interfere with what is essentially a medical determination of a Claims Review Committee panel.

Westlake Paving and Aggregates Ltd., BCLRB No. B116/2011 (Application for Reconsideration dismissed in BCLRB No. B34/2012) - If collective agreement provisions do not enable the parties and the Board to determine with sufficient certainty which individuals have a reasonable expectation of recall at the time of the application, then the 30/30 rule established by the Board in *B.A.T. Construction Ltd.*, BCLRB No. B444/94 (Leave for Reconsideration of BCLRB Nos. B102/93 and B178/93) applies. There is a distinction between a clear enforceable right, such as rights of recall based on seniority within a specified time, and subjective rights, such as rights of name request.

Chris Knowles, BCLRB No. B124/2011 (Leave for Reconsideration of BCLRB No. B49/2011) - The reconsideration panel of the Board held an original panel breached natural justice rights and the doctrine of *functus officio* when it improperly expanded the scope of a hearing, contrary to specific determinations and directions it had previously made. The original panel also employed an improperly broad application of s. 12 of the Code by focusing on how the panel would have considered the evidence before the union, rather than whether the union acted arbitrarily, discriminatorily or in bad faith. The matter was remitted to a new panel.

West Fraser Mills Ltd., BCLRB No. B139/2011 (Leave for Reconsideration of BCLRB No. B65/2011) - The reconsideration panel of the Board held the original panel inappropriately and fundamentally altered its approach to the determination of dependency in the definition of "dependent contractor" under s. 1 of the Code. The original panel focused or made the "deciding variable" the contractor's ability to choose other work. Such an approach was inconsistent with the remedial nature of dependent contractor provisions.

CSH Hampton House Inc. and CSH Carrington House Inc., BCLRB No. B141/2011 (Leave for Reconsideration of BCLRB No. B67/2011) - The rationalization of bargaining unit structure can constitute a valid labour relations purpose for a common employer declaration in the single union context.

John William Yaremy, BCLRB No. B151/2011 (Leave for Reconsideration of BCLRB No. B101/2011) - An applicant risks having their complaint or reconsideration application summarily dismissed if they rely on assertions that lack proper supporting argument.

Maganbhai L. Patel, BCLRB No. B154/2011 (Leave for Reconsideration of BCLRB No. B97/2011), ***Bradford C. Junkin***, BCLRB No. B159/2011 (Leave for Reconsideration of BCLRB No. B166/2009), and ***Steven Rooke,*** BCLRB No. B164/2011 (Leave for Reconsideration of BCLRB No. B130/2011) - Reconsideration is not an avenue for arguments that ought to have been raised before an original panel, including *Charter* and human rights arguments.

Canadian Union of Public Employees, BCLRB No. B160/2011 (Leave for Reconsideration of BCLRB No. B105/2011) - The Board's test for determining interested party standing is whether the person or persons will be affected by the proceedings in a direct and legally material way. There is no requirement for "anything extraordinary". Concerns such as potential duplication or unnecessary delay that may arise from granting standing can be addressed by the Board's right to control its proceedings and determine the scope of participation under Rule 8 of the Labour Relations Board Rules. These kinds of concerns do not arise with respect to determining standing in the first instance.

Certain Employees of British Columbia Automobile Association, BCLRB No. B184/2011 (Leave for Reconsideration of BCLRB No. B106/2011) - It is inconsistent with and counterproductive to the reconsideration process and the Board's duties under the Code to minutely dissect the reasons of an original decision in every case, especially in the context of decisions that are largely based on the specific facts and which do not incorporate or use new tests. To accede too readily to these arguments and requests undermines the accessible guidance of having leading policy decisions such as *Certain Employees of White Spot Limited,* BCLRB No. B16/2001 (Leave for Reconsideration of BCLRB No. B440/99).

Hardy Buoys Smoked Fish Inc., BCLRB No. B190/2011 (Leave for Reconsideration of BCLRB No. B173/2011) and ***Keltic Seafoods Limited***, BCLRB No. B227/2011 (Leave for Reconsideration of BCLRB No. B188/2011) - Where a union challenges an Industrial Relations Officer's finding of a lack of requisite threshold support under s. 24 of the Code, the issue of disclosure may arise.

Before disclosure of the tentative employee voters list is ordered, an inquiry is required to meet the parties' competing interests and to determine whether the union's claim of threshold support is genuine (*Spacan Manufacturing Ltd.*, BCLRB No. B318/99 (Leave for Reconsideration of BCLRB Nos. B357/98 and B358/98), paras. 14-15). There is no error in ordering disclosure where a union's assertion is *bona fide* and not a fishing expedition or form of discovery to assist organizing. There is also no error in ordering disclosure where the union provides specific reasons and raises a fair issue with respect to employee constituency. Given the expeditious nature of such applications, the Board is not required to explore the union's reasons in a full-blown litigation process or in a lengthy decision.

British Columbia Public School Employers' Association, BCLRB No. B236/2011 (Leave for Reconsideration of BCLRB No. B214/2011) - The task of the Board with respect to essential services designations "is to exert as much pressure on both sides without having a serious and immediate disruption on the provision of education programs" (*British Columbia Public School Employers' Association*, BCLRB No. B161/2011, para. 61). There is a clear distinction between bargaining pressure and bargaining power. It is not the role and responsibility of the Board to balance the latter. In the context of the particular dispute, the reconsideration panel noted the essential services designations agreed to by the parties had been ineffective largely because they failed to follow the Board's long established approach to essential services designations.

IV. COURT DECISIONS

1. ***United Steelworkers, Paper and Forestry, Rubber, Manufacturing, Energy (Allied Industrial and Service Workers International Union, Local 2009) v. Auyeung,*** 2011 BCSC 220 (Appeal dismissed in 2011 BCCA 527) - The chambers judge dismissed the union's application for judicial review of the Board's decisions that held that the union violated s. 12 of the Code. The union alleged that the Board incorrectly interpreted and applied the *Employment Standards Act*, R.S.B.C. 1996, c. 113 (the "*Act*"), that the decisions were patently unreasonable and that the Board breached its natural justice rights. The chambers judge found the Board was entitled to accept a delegate of the Employment Standards Branch's interpretation of the *Act* as part of the factual context. The decisions were ultimately found consistent with Board jurisprudence, and not patently unreasonable. The chambers judge also dismissed all procedural fairness allegations.

2. ***Canadian Office and Professional Employees Union, Local 378 v. Lantic Inc.,*** 2011 BCSC 242 - As a preliminary matter in the union's application for judicial review of the Board's reconsideration decision in BCLRB No. B102/2010, the chambers judge dismissed the union's objection to the participation of the Board in the judicial review proceedings. The chambers judge applied a context-specific approach to exercise his discretion to determine the scope of the Board's standing, and held concerns of finality and impartiality were not engaged as the submissions of the Board would not defend the merits. Rather, the Court held the submissions would be helpful to explain the record, the appropriate standard of review, and jurisdictional limits on reviewing labour policy.

3. ***United Food and Commercial Workers' International Union, Local 1518 v. British Columbia (Labour Relations Board), Pollyco (Rupert Square) Shopping Centre Inc., Loblaw Companies Ltd., 459966 B.C. Ltd.,*** 2011 BCSC 455 - The union applied for judicial review of the Board's reconsideration decision that remitted a matter to be reheard. The Court found the Board breached the union's natural justice rights on the basis that the Board failed to provide it with an opportunity to make submissions on the merits of the reconsideration application. As a result, the chambers judge set aside the reconsideration decision and remitted the matter to a new panel.

4. ***International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers (Local 97) v. British Columbia (Labour Relations Board), PCL Westcoast Inc., et al.,*** 2011 BCSC 614 - The union sought an order prohibiting the Board from adjudicating the union's unfair labour practice complaint on the basis of bias or the reasonable apprehension of such. The chambers judge dismissed the petition on the basis of prematurity. The union failed to exhaust its internal statutory remedies given that the bias allegations had not yet been made to the Board. No extraordinary circumstances existed to override the general rule against first raising bias allegations on judicial review.

5. ***United Food and Commercial Workers Union, Local 247 v. British Columbia (Labour Relations Board), Overwaitea Food Group, a Division Of Great Pacific Industries Inc., et al.,*** 2011 BCSC 706 - The union sought judicial review of the Board's reconsideration decision on the basis that the Board failed to provide it with the reconsideration granted. A reconsideration panel of the Board initially found an original panel made a factual error in the course of dismissing the union's various applications and

remitted the matter to the original panel to be decided in light of the error. On remittal, the original panel dismissed only one of the union's applications based on its interpretation of the narrow matters remitted to it, which was subsequently upheld on reconsideration. The chambers judge quashed the reconsideration decision on the basis that the Board misapprehended the scope of the remittal.

6. ***Jones v. Industrial Wood and Allied Workers of Canada (Local 1-3567),*** 2011 BCSC 929 - The chambers judge dismissed the petitioner's application for judicial review of the Board's ss. 12 and 141 decisions. Among other things, the petitioner argued the Board breached his natural justice rights by failing to order disclosure of certain documents and hold an oral hearing. The chambers judge held that the interests of fairness did not require disclosure of documents that played no role in the union's decision not to pursue a grievance (the decision which led to the s. 12 complaint), nor did it require an oral hearing. The chambers judge also found neither decision patently unreasonable.

7. ***Communications, Energy & Paperworkers' Union of Canada, Local 298 v. British Columbia (Labour Relations Board) and Eurocan Pulp & Paper Co.,*** 2011 BCSC 953 - The chambers judge allowed the union's application for judicial review of the Board's reconsideration decision setting aside an arbitrator's decision that was upheld by the original panel. The chambers judge held that the Board misconstrued the arbitrator's decision and therefore overturned the reconsideration decision on the basis that it was patently unreasonable. He remitted the matter to the Board for reconsideration.

8. ***Canadian Office and Professional Employees Union, Local 378 v. Lantic Inc.,*** 2011 BCSC 969 - The chambers judge dismissed the union's application for judicial review of the Board's reconsideration decision. The union argued that the reconsideration decision was patently unreasonable because it ignored and misused facts found by the original panel. The chambers judge held that the Board on reconsideration is entitled to a high level of deference and entitled to draw its own inferences from the facts as long as it does not interfere with the original factual findings. The chambers judge found the Board on reconsideration did not reverse, disregard or misread the facts found by the original panel, and that the decision was within the range of possible outcomes on the facts and labour jurisprudence.

9. ***Pacific Newspaper Group Inc. v. Communications, Energy and Paperworkers Union of Canada, Local 2000,*** 2011 BCCA 373 - The Court of Appeal allowed the employer's appeal from the dismissal of its application for judicial review of the Board's decisions. The original panel of the Board initially dismissed an application by the employer to set aside the union's unfair employer declaration which was subsequently overturned by the Board on reconsideration. The Court of Appeal allowed the appeal and remitted the matter on the basis that the reconsideration panel reached a decision not to grant the employer an effective remedy without providing an opportunity for submissions by the parties. Fairness required an opportunity for submissions on the remedies issue and reasons for its decision.

10. ***Brownjohn v. British Columbia (Labour Relations Board),*** 2011 BCSC 1482 - The chambers judge dismissed the petitioner's application for judicial review of the Board's ss. 12 and 141 decisions. The chambers judge found neither decision was patently unreasonable nor were they inconsistent with the principles of natural justice.

11. ***United Steelworkers, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, Local 2009 v. Auyeung***, 2011 BCCA 527 - The Court of Appeal dismissed the union's appeal from the dismissal of its application for judicial review of the Board's decisions that held that the union violated s. 12 of the Code. The Court dismissed the appeal on the merits and upheld the Board's decisions. The Court agreed with the chambers judge that the patent unreasonableness standard under the *Administrative Tribunals Act*, S.B.C. 2004, c. 45, has not been diluted or altered by *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190. The Court also held that judicial review was to be limited to review of the Board's reconsideration decision, although it may be informed by the original decision.

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The following tables provide an analysis of the applications filed and disposed of in 2011. In some cases, statistics from 2010 and other years are provided for comparative purposes.

As of 2005 Table 1 of the *LRB Annual Report* includes applications and complaints "Filed Previous" and "Remainder Active". These figures help provide an overview of the active or current caseload at the Labour Relations Board.

Statistical Tables Definitions:

- **Application / Complaint**: a section or subsection of the Labour Relations Code. A 'case' may be comprised of more than one application or complaint (section);
- **Filed in Previous Year(s)**: count of applications / complaints received sometime prior to the report period and not yet disposed of at January 1 of the report period;
- **Filed in Current Year**: count of applications / complaints received in the report period;
- **Disposed of - Current**: count of applications / complaints with a final disposition in the report period (includes applications / complaints Not Proceeded With, Withdrawn, Settled, Granted, Dismissed and Other);
- **Open at Year End**: count of applications / complaints received sometime during or prior to the report period and open (not yet disposed of) at the end of the report period. These applications / complaints may be counted as Filed in Current Year or Filed in Previous Year(s), as applicable (same as column heading for 2005-2007 reports: Remainder Active).

A number of other changes have been made during past years in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for reference (in date order with most recent appearing first).

Requests for Appointment of a Facilitator

Applications to appoint a Facilitator under Section 53 are counted as applications for the first time in the 2008 Annual Report (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications have been processed by the Board/Council prior to 2008 but have not appeared in the Annual Report Tables until now.

Changes in Report Tables

Tables available in previous years regarding vote information for representation applications, details of Part 5 applications, and details of Mediation Officer appointments were taken out of the Annual Report in 2004. Certification cancellation information (s.33(2)) was added to tables 1A, 1B, 2 and 2A as of 2004. Other information previously included in Table 1 footnotes has been moved to related tables for ease of reference and readability.

Applications for Collective Agreement Arbitration

The Labour Relations Board assumed the processing of these applications from the Collective Agreement Arbitration Bureau in mid-2002; however, due to technical and procedural considerations, applications under Sections 86, 87, 104 and 105 ("CAAB" applications) were counted in the Board's statistics only if received on or after January 1, 2003 (i.e., any 'outstanding' CAAB applications at the end of 2002 are not included in the Board's statistics).

Requests for Appointment of a Mediator

Applications to appoint a mediator under Section 74 were counted as applications for the first time in the 2002 Annual Report (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications were processed by the Board/Council prior to 2002 but appeared only in the "Analysis of Mediator Appointments" Table for those years.

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not broken down by sub-section. From 1989 to 1996, complaints under each particular sub-section were counted as one complaint.

In 1996, the Board has decided to revert to the pre-1989 method of counting these complaints. The change affects the statistics published as Sections 2,3 and 4 of the *Industrial Relations Act* and Sections 5,6,7 and 9 of the *Labour Relations Code*. The following table displays the statistics as they were published and as they would have been under the pre-1989 method of counting (rev).

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss.5,6,7 and 9 of the Labour Relations Code or ss.2,3, and 4 of the Industrial Relations Act)	1995	825	909	26	0	573	192	118	0	449
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	899	831	9	0	586	136	100	0	362
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	748	676	3	0	440	134	99	0	331
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	416	345	0	0	205	108	32	0	176
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	346	370	0	0	241	92	37	0	NP
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	386	388	5	0	220	100	63	0	NP
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	209	177	0	0	96	47	34	0	NP
	1989 (rev)	123	118	0	0	61	36	21	0	

NP --Not Published

Stay Applications

Applications for a Stay of proceedings were counted as applications for the first time in 1993 (see Table 1: "Applications and Complaints Filed and Disposed of"). A footnote has been added to the Miscellaneous category to facilitate comparisons over time. In previous years, these applications were not counted.

For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship

Prior to 1989, an application regarding the inclusion or exclusion of employees from a bargaining unit was counted as one application for each employee in question if a ruling was made; if the application was withdrawn, it was counted as one application regardless of the number of employees involved. From 1989 on, an application regarding

the inclusion or exclusion of employees is counted as one application regardless of the number of employees in question and regardless of whether or not a ruling is made.

To File an Order in the Supreme Court

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989 (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications had been processed by the Board/Council since 1974 but were not registered or counted prior to 1989.

For an Order or Opinion Pertaining to Applications Pursuant to Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application under Part 5 was counted as one application, regardless of the sections cited. One application could cover, for example, a strike or a picket or a combination of both. From 1988 on, each section and sub-section of Part 5 is counted as a separate application.

GENERAL NOTES

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Complaints that do not require a decision from the Board are designated settled including cases for which the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1: Applications and Complaints Filed and Disposed of in 2011 (including comparative figures for 2010)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Complaints of Unfair Labour Practices												
Complaints Regarding Internal Union Affairs (s.10)	2011	8	2	7	1	0	0	0	6	0	3	0
	2010	7	15	14	3	0	6	1	4	0	8	0
Complaints Regarding Duty to Bargain in Good Faith (s.11)	2011	13	24	21	0	0	17	2	2	0	16	2
	2010	14	44	45	1	0	27	10	7	0	13	12
Complaints Regarding Duty of Fair Representation (s.12)	2011	37	66	74	17	0	1	4	52[1]	0	29	3
	2010	21	98	82	26	0	5	5	46[2]	0	37	1
Other Unfair Labour Practice Complaints (ss.5 - 9)[3]	2011	59	124	133	1	0	91	20	21	0	50	36
	2010	64	215	220	3	0	136	32	49	0	59	76
Religious Exemption (s.17)	2011	0	5	4	0	0	0	4	0	0	1	0
	2010	1	6	7	2	0	0	4	1	0	0	0
Certification Applications (ss.18, 19 and 28)	2011	50	129	126	2	30	0	58[4]	36	0	53	116
	2010	56	160	166	1	48	0	72	45	0	50	142
Certification Variances (ss.28 and 142)	2011	21	146[5]	142[6]	4	14	0	110	14	0	25	38
	2010	30	128[7]	137[8]	0	10	0	119	8	0	21	31

[1] 30 of the 52 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.
[2] 25 of the 46 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.
[3] In 1996, the Board changed the method of counting complaints under Sections 5 and 6 of the *Labour Relations Code*. Figures in this category reported prior to 1996 cannot be compared to figures in this category reported from 1996 to present.
[4] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2011, 58 certification applications were granted resulting in 56 certifications being issued.
[5] Includes six partial decertification applications.
[6] Includes seven partial decertification applications. See TABLE 3.
[7] Includes four partial decertification applications.
[8] Includes two partial decertification applications. See TABLE 3.

TABLE 1: Applications and Complaints Filed and Disposed of in 2011 (including comparative figures for 2010)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Certification Cancellations (ss.33 and 142)[1]	2011	5	39	38	2	1	0	27	8	0	6	31
	2010	9	48	52	5	2	0	33	12	0	5	34
Cancellation of a Voluntary Recognition (s.34)	2011	0	4	3	0	0	0	3	0	0	1	3
	2010	2	5	7	1	2	0	3	1	0	0	3
Permission to Alter Conditions of Employment (ss.32 and 45)	2011	0	0	0	0	0	0	0	0	0	0	0
	2010	0	3	3	0	0	3	0	0	0	0	3
Alleged Unlawful Alteration of Employment Terms and Conditions (ss.32 and 45)	2011	5	9	11	0	0	9	1	1	0	3	4
	2010	7	20	22	0	0	12	3	7	0	5	8
Declaration of Successor Status												
Successor Employer (s.35)	2011	9	61	52	3	6	0	41	2	0	18	1
	2010	16	45	52	4	7	0	33	8	0	9	5
Successor Union (s.37)[2]	2011	1	28	27	0	0	0	27	0	0	2	0
	2010	4	9	12	0	0	0	11[3]	1	0	1	0
Common Employer (s.38)	2011	8	20	20	0	13	0	4	3	0	8	4
	2010	8	8	8	0	3	0	2	3	0	8	1
Accreditation Applications (s.43)	2011	0	0	0	0	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0	0	0	0	0

[1] See TABLE 3.

[2] The workload required to process applications in this category varies widely. The Board may receive one application per collective bargaining relationship or one application covering several collective bargaining relationships. This report reflects the number of applications filed and disposed of regardless of the number of collective bargaining relationships affected by those applications (any notable discrepancies are listed below).

[3] 11 applications granted affecting 1278 collective bargaining relationships.

TABLE 1: Applications and Complaints Filed and Disposed of in 2011 (including comparative figures for 2010)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Accreditation Variances (ss.43 and 142)	2011	1	5	4	0	0	0	4	0	0	2	0
	2010	49	6	54	0	0	0	26	28	0	1	0
Accreditation Cancellations (s.142)	2011	0	0	0	0	0	0	0	0	0	0	0
	2010	0	0	0	0	0	0	0	0	0	0	0
Alleged Failure to Execute or Comply with a Collective Agreement (s.49)	2011	4	11	6	0	0	5	0	1	0	9	0
	2010	3	12	11	0	0	7	2	2	0	4	2
Facilitator (s.53(5))	2011	9	30	23	0	0	0	n/a	n/a	23[1]	16	0
	2010	19	34	44	0	1	0	n/a	n/a	43[1]	9	0
First Collective Agreement (s.55)[2]	2011	0	7	6	0	0	4	n/a	n/a	2[3]	1	0
	2010	4	6	10	0	0	7	n/a	n/a	3[4]	0	2
Appointment of a Mediation Officer (s.74)[2]	2011	35	102	110	0	2	97	n/a	n/a	11[5]	27	0
	2010	24	118	107	0	5	100	n/a	n/a	2[6]	35	0

[1] Facilitator appointed.

[2] The method of coding applications in these two categories changed in 2009 (a) when an application is received under the First Collective Agreement provisions of the *Code* and a Mediation Officer was previously appointed under s. 74, the s. 74 case is disposed of as withdrawn (previously coded as other); and (b) when the parties agree to settle matters by way of mediation-arbitration or arbitration, the case is disposed of as settled (previously disposed of as other or settled).

[3] For one case, the matter was referred to arbitration under s. 55(7); and for one case, the parties were allowed to exercise their right to strike or lockout.

[4] For all cases, the matter was referred to arbitration under s. 55(7).

[5] For four cases, no agreement reached; for four cases, the unit was decertified; for two cases the business closed; and for one case, the matter was referred to arbitration under the *Fire and Police Services Collective Bargaining Act*.

[6] For both cases, the units were decertified.

TABLE 1: Applications and Complaints Filed and Disposed of in 2011 (including comparative figures for 2010)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Collective Agreement Arbitration Bureau (CAAB)[1]												
Section 86 (Appointment of Arbitrator)	*2011*	*6*	*53*	*46*	*0*	*23*	*1*	*n/a*	*n/a*	*22*[2]	*13*	*n/a*
	2010	*8*	*63*	*65*	*1*	*29*	*0*	*n/a*	*n/a*	*35*[2]	*6*	*n/a*
Section 87 (Appointment of Settlement Officer)	*2011*	*3*	*32*	*30*	*2*	*2*	*17*	*n/a*	*n/a*	*9*[3]	*5*	*n/a*
	2010	*6*	*26*	*29*	*1*	*3*	*18*	*n/a*	*n/a*	*7*[3]	*3*	*n/a*
Section 104 (Appointment of Arbitrator)	*2011*	*5*	*187*	*182*	*2*	*40*	*12*	*n/a*	*n/a*	*128*[4]	*10*	*n/a*
	2010	*4*	*223*	*222*	*1*	*69*	*37*	*n/a*	*n/a*	*115*[4]	*5*	*n/a*
Section 105 (Appointment of Mediator-Arbitrator)	*2011*	*0*	*1*	*1*	*0*	*1*	*0*	*n/a*	*n/a*	*0*	*0*	*n/a*
	2010	*0*	*3*	*3*	*1*	*2*	*0*	*n/a*	*n/a*	*0*	*0*	*n/a*
Combined CAAB Sections	***2011***	***14***	***273***	***259***	***4***	***66***	***30***[5]	*n/a*	*n/a*	***159***	***28***	***n/a***
	2010	***18***	***315***	***319***	***4***	***103***	***55***[6]	***n/a***	***n/a***	***157***	***14***	***n/a***
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss.57-67 and ss.69-70)	2011	3	51	41	0	0	18	15	8	0	13	23
	2010	5	21	23	0	0	19	2	2	0	3	8

[1] These applications were included in the *LRB Annual Report* for the first time in 2003. Beginning in 2004, figures for individual sections as well as the combined totals for CAAB (ss.86, 87, 104, 105) are included in this report. In general, for this category, Withdrawn indicates withdrawal / settlement prior to any appointments and Settled indicates withdrawal / settlement subsequent to the appointment of a Settlement Officer but prior to appointment of an Arbitrator. See individual section notes regarding Other dispositions.

[2] Arbitrator appointed (recorded in previous 2004 and 2003 reports as Granted).

[3] Matter referred back to the parties under Section 87(3).

[4] Arbitrator appointed (recorded in previous 2004 and 2003 reports as Granted). For 16 cases in 2011 and 21 cases in 2010, a Settlement Officer was appointed in addition to an Arbitrator.

[5] A Settlement Officer was appointed for 60 CAAB applications disposed of in 2011: 30 disposed of as Settled and 30 disposed of as Other. Of these 60 applications, 37 (62%) resulted in full and final settlement.

[6] A Settlement Officer was appointed for 91 CAAB applications disposed of in 2010: 55 disposed of as Settled and 36 disposed of as Other. Of these 91 applications, 73 (80%) resulted in full and final settlement.

TABLE 1: Applications and Complaints Filed and Disposed of in 2011 (including comparative figures for 2010)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Replacement Workers (s.68)	2011	0	3	2	0	0	1	1	0	0	1	2
	2010	0	4	4	0	0	4	0	0	0	0	0
Essential Service Designations (s.72)	2011	1	204	201	0	0	4	197	0	0	4	4
	2010	0	8	7	0	0	5	2	0	0	1	0
Last Offer Vote (s.78)	2011	0	11	11	0	0	1	10[1]	0	0	0	0
	2010	0	14	14	0	0	0	14[2]	0	0	0	2
Review of Arbitration Award (s.99)	2011	16	39	35	0	8	0	2	25	0	20	0
	2010	18	29	31	0	5	0	8	18	0	16	0
Interim Order (s.133(5))	2011	1	2	2	0	1	0	1	0	0	1	2
	2010	1	5	5	0	2	0	1	2	0	1	1
File an Order in Supreme Court (s.135)	2011	1	21	20	0	11	0	9	0	0	2	0
	2010	2	14	15	0	9	0	6	0	0	1	0
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	2011	55	45	35	0	18	0	0	0	17[3]	65	3
	2010	61	44	50	0	23	0	0	0	27[3]	55	11
Reconsideration of a Decision (s.141)	2011	6	53	45	1	1	0	6	37[4]	0	14	0
	2010	8	49	51	0	2	0	10	39[5]	0	6	0

[1] In six cases the final offer was rejected, in three cases the offer was accepted, and in one case the ballots were not counted: BCLRB B204/2011

[2] In seven cases the final offer was rejected; in four cases the offer was accepted; in one case ballots were not counted: BCLRB B52/2010; and in two cases ballots were not counted: Consent Order issued.

[3] Ruling made.

[4] For 34 of the 37 applications dismissed in 2011, leave to apply was denied.

[5] For 36 of the 39 applications dismissed in 2010, leave to apply was denied.

TABLE 1: Applications and Complaints Filed and Disposed of in 2011 (including comparative figures for 2010)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Declaratory Opinion (excluding Declaratory Opinions Pertaining to Part V of the Legislation) (s.143)	2011	4	9	8	0	0	0	4	4	0	5	1
	2010	2	9	7	0	1	0	3	3	0	4	2
Miscellaneous	2011	25	65[1]	53[2]	1	6	15	21	10	0	37	3
	2010	26	87[3]	88[4]	2	6	32	28	20	0	25	13
Total	**2011**	**391**	**1588**	**1519**	**36**	**177**	**293**	**571**	**230**	**212**	**460**	**276[5]**
	2010	**479**	**1579**	**1667**	**52**	**229**	**418**	**430**	**306**	**232**	**391**	**357[6]**

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

[1] Includes five stay applications.
[2] Includes three stay applications (two were dismissed and one was granted).
[3] Includes two stay applications.
[4] Includes three stay applications (two were dismissed and one was withdrawn).
[5] 276 applications disposed of in 2011 were heard sometime during the process. In 2011, the Board held 231 hearings (including 179 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2011.
[6] 357 applications disposed of in 2010 were heard sometime during the process. In 2010, the Board held 241 hearings (including 193 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2010.

Chart 1: Number of Applications and Complaints FILED in 2011 - by Type of Application/Complaint

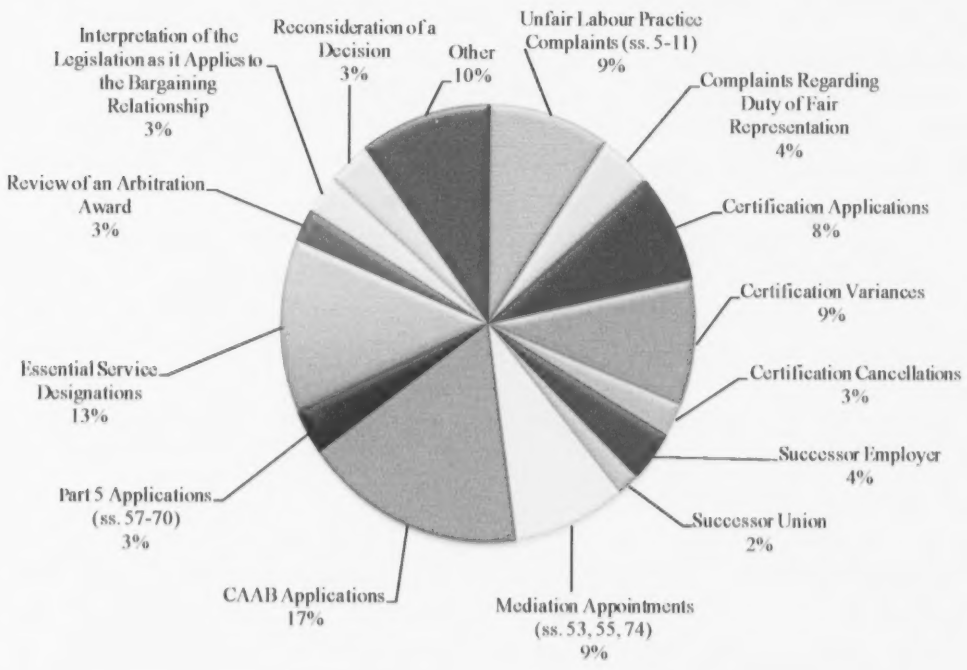
Unfair Labour Practice Complaints (ss. 5-11) 9%
Complaints Regarding Duty of Fair Representation 4%
Certification Applications 8%
Certification Variances 9%
Certification Cancellations 3%
Successor Employer 4%
Successor Union 2%
Mediation Appointments (ss. 53, 55, 74) 9%
CAAB Applications 17%
Part 5 Applications (ss. 57-70) 3%
Essential Service Designations 13%
Review of an Arbitration Award 3%
Interpretation of the Legislation as it Applies to the Bargaining Relationship 3%
Reconsideration of a Decision 3%
Other 10%

TABLE 1A: Certification Applications and Certification Cancellations Under s. 33(2) Granted in 2011 - Analyzed by Industry

Type of Industry	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Number of Employees[2]	Number of Applications Granted	Number of Employees[3]
Accommodation, Food and Beverage Services	0	0	2	15
Business Services	2	23	0	0
Construction	9	117	5	65
Educational Services	1	31	2	86
Government Services	2	13	0	0
Health and Social Services	12	633	1	8
Logging and Forestry	1	33	1	61
Manufacturing	10	532	2	9
Mining (Including Milling), Quarrying and Oil Wells	1	310	1	11
Retail Trade	2	62	4	79
Transportation and Storage	5	72	3	19
Other Services	13	329	1	1
Total	**58[4]**	**2155**	**22**	**354**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form.

[3] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer.

[4] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2011, 58 certification applications were granted resulting in 56 certifications being issued.

Chart 1A: Certification Applications Granted - Analyzed by Type of Industry (Number of Applications)

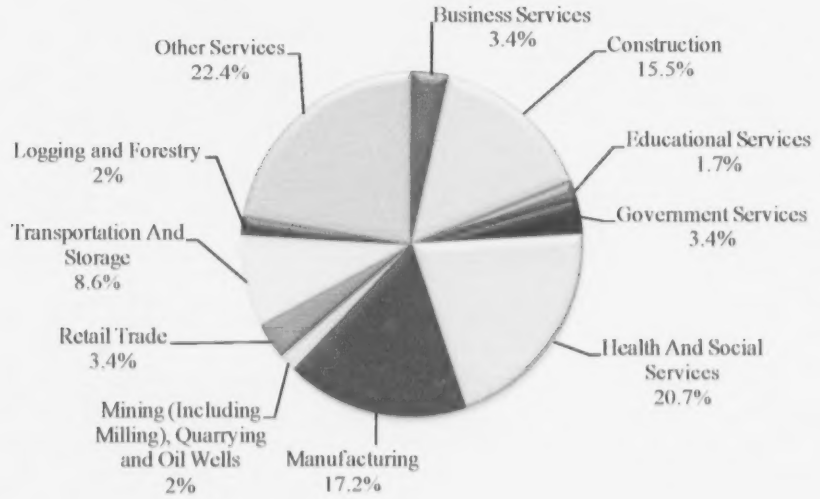

Chart 1B: Certification Applications Granted - Analyzed by Type of Industry (Number of Employees)

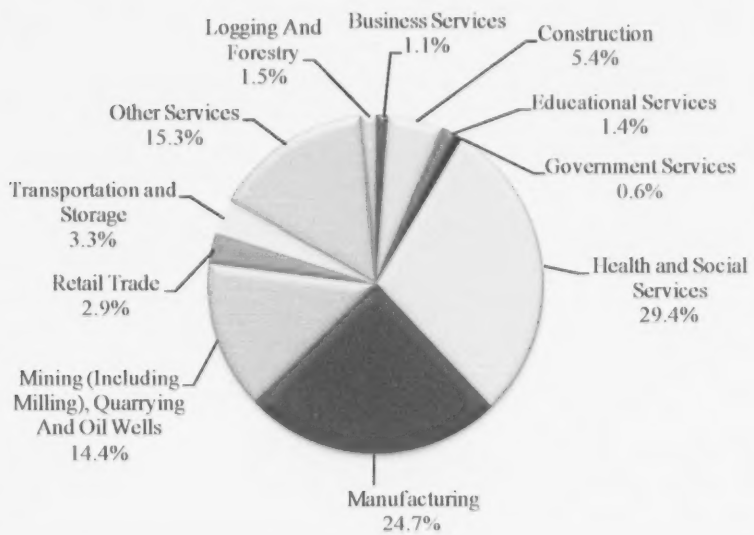

Chart 1C: Certification Cancellations (s.33(2)) Granted - Analyzed by Type of Industry (Number of Applications)

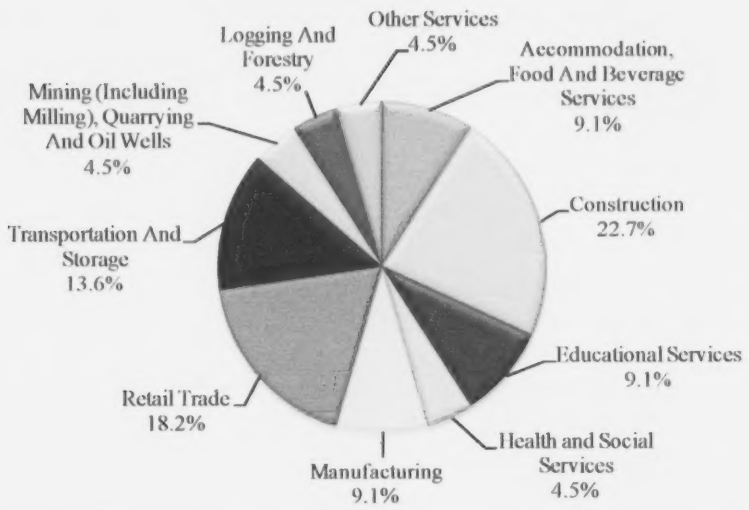

Chart 1D: Certification Cancellations (s.33(2)) Granted - Analyzed by Type of Industry (Number of Employees)

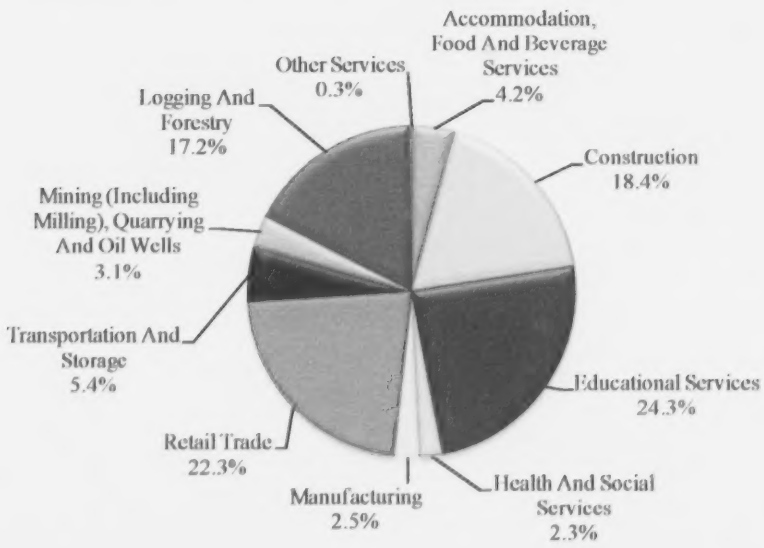

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Granted in 2011 - Analyzed by Union

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed[2]	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
BCGEU (not including Brewery Workers)	17	8	3	2
Carpenters (not including CMAW or CAST councils)	1	0	1	0
CMAW Bargaining Council	3	1	0	0
CAW	3	3	1	1
CLAC	8	4	0	0
CEP	5	3	1	1
CUPE	7	2	2	2
Electrical Workers (IBEW)	3	2	3	3
Fire Fighters	1	1	0	0
Food and Commercial Workers (UFCW)	6	2	7	3
Health Sciences Association (HSA)	1	1	0	0
Hospital Employees Union (HEU)	8	3	0	0
Hotel Employees	0	0	2	1
IATSE	2	0	0	0
Iron Workers	3	1	0	0
Labourers	2	1	0	1
Machinists and Aerospace Workers	1	0	0	0
Marine Workers	0	0	1	1
Nurses (BCNU)	11	2	0	0
Office and Professional Employees (COPE)	3	0	0	0
Operating Engineers (IUOE)	9	5	2	1
Owner-Operators (COOWA)	1	1	0	0
Painters (not including Glaziers 1527)	1	0	0	0

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Granted in 2011 - Analyzed by Union

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed[2]	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
Plumbers & Refrigeration Workers	1	0	0	0
Post-Secondary Educators (FPSE)	2	0	0	0
PPWC	5	2	0	0
Service Employees (SEIU)	1	1	0	0
Sheet Metal Workers	3	3	0	0
Steelworkers	13	7	3	2
Teamsters	4	3	5	4
Single Employer Employee Association	2	2	0	0
Total	**127**	**58[3]**	**31**	**22**

[1] Only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the number of applications filed and/or granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[2] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[3] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2011, 58 certification applications were granted resulting in 56 certifications being issued.

TABLE 2: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Decided in 2011

Type of Application		Filed[1]	Granted	Dismissed	Total Decided
Total Certification Applications	Number of Applications	127	58[2]	36	94
	Number of Employees[3]	11 933	2155	1699	3854
Certification Applications for Previously Unorganized Employees	Number of Applications	110	52	31	83
	Number of Employees	4491	1543	1652	3195
Certification Applications for Organized Employees	Number of Applications	17	6	5	11
	Number of Employees	7442	612	47	659
Total Applications to Cancel a Certification Brought by Employees under s. 33(2)[4]	Number of Applications	31	22	8	30
	Number of Employees[5]	782	354	425	779

[1] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[2] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2011, 58 certification applications were granted resulting in 56 certifications being issued.

[3] The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application. The estimate could include some multiple counting where more than one union applied to cover the same group of employees, or where the same union made alternative applications to cover the same group of employees.

[4] Since only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table, the number of applications filed and/or decided may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[5] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer. The number of employees on an application for which a Return of Poll is either not available or not applicable (in particular, for the number of applications Filed) is based on the bargaining unit size listed in the report of the Industrial Relations Officer.

TABLE 2A: Certification Applications and Certification Cancellations Under s. 33(2) Granted in 2011 - Analyzed by the Size of the Bargaining Unit

Size of Bargaining Unit (Number of Employees)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Percentage of Applications Granted	Number of Applications Granted	Percentage of Applications Granted
1 to 10	22	38%	12	55%
11 to 20	12	21%	5	23%
21 to 30	8	14%	1	5%
31 to 40	3	5%	1	5%
41 to 50	4	7%	0	0%
51 to 60	1	2%	2	9%
61 to 70	0	0%	1	5%
71 to 80	2	3%	0	0%
81 to 90	0	0%	0	0%
91 to 100	0	0%	0	0%
101 to 200	4	7%	0	0%
Over 200	2	3%	0	0%
Total	**58[2]**	**100%**	**22**	**100%**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

[2] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2011, 58 certification applications were granted resulting in 56 certifications being issued.

Chart 2A: Certification Applications Granted Analyzed by Size of Bargaining Unit (Percentage of Applications)

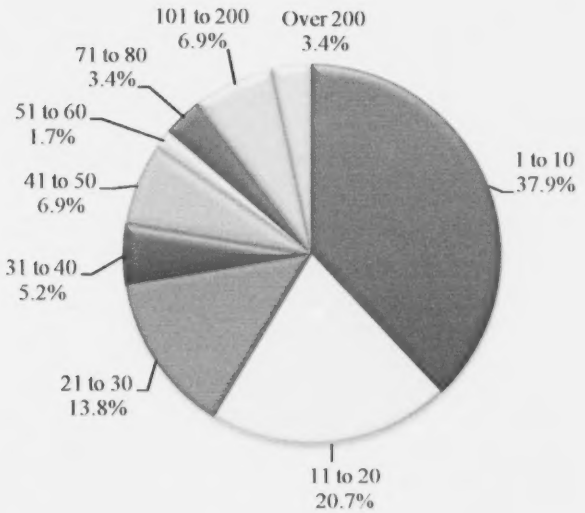

Chart 2B: Certification Cancellations (s.33(2)) Granted Analyzed by Size of Bargaining Unit (Percentage of Applications)

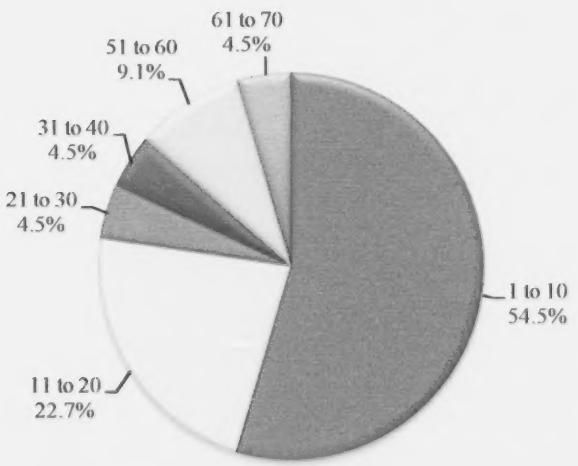

TABLE 2B: Certification Applications Granted Between 1990 and 2011 by Size of the Bargaining Unit

Year	Number and Percentage of Certification Applications						
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		Total
1990	181	72.4%	47	18.8%	22	8.8%	250
1991	173	70.9%	47	19.3%	24	9.8%	244
1992	130	66.0%	47	23.9%	20	10.1%	197
1993	353	69.4%	102	20.0%	54	10.6%	509
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348[1]
1999	239	65.8%	65	17.9%	59	16.3%	363[2]
2000	169	64.3%	45	17.1%	49	18.6%	263
2001	105	58.0%	40	22.1%	36	19.9%	181
2002	62	70.4%	13	14.8%	13	14.8%	88
2003	54	72.0%	11	14.7%	10	13.3%	75[3]
2004	58	65.9%	17	19.3%	13	14.8%	88
2005	170	63.9%	62	23.3%	34	12.7%	266[4]
2006	58	65.2%	21	23.6%	10	11.2%	89
2007	72	59.5%	26	21.5%	23	19.0%	121
2008	62	64.6%	13	13.5%	21	21.9%	96
2009	43	48.9%	20	22.7%	25	28.4%	88
2010	42	58.3%	13	18.1%	17	23.6%	72
2011	34	58.6%	15	25.8%	9	15.5%	58[5]

[1] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.

[2] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

[3] Five separate certification applications for the same employee bargaining unit were granted and simultaneously consolidated resulting in the issuance of a single certification; thus the total number of new certifications granted for a bargaining unit size between 1 and 20 employees is 50 and the total number of certifications granted in 2003 is 71.

[4] A number of applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit(s). A further application was granted and two certifications issued as a result. In total, in 2005, 266 certification applications were granted resulting in 249 certifications being issued.

[5] Three certification applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit (a single certification was issued as a result). In total, in 2011, 58 certification applications were granted resulting in 56 certifications being issued.

TABLE 3: Applications to Cancel Certifications Disposed of in 2011 and 2010

Type of Applicant (and Application)	Year	Granted	Dismissed	Not Proceeded With	Withdrawn	Total
Filed by Employee(s) (s. 33)	2011	22	8	2	1	33
	2010	24	10	5	2	41
Filed by Employee(s) (s. 142 - Partial Decertification)[1]	2011	3	3	0	1	7
	2010	1	1	0	0	2
Filed by Employer(s)	2011	1	0	0	0	1
	2010	5	2	0	0	7
Filed by Union(s)	2011	3	0	0	0	3
	2010	4	0	0	0	4
Filed by Employer(s) / Union(s)	2011	1	0	0	0	1
	2010	0	0	0	0	0
Total	**2011**	**30**	**11**	**2**	**2**	**45**
	2010	**34**	**13**	**5**	**2**	**54**

[1] Applications filed under s. 142 for Partial Decertification are included in TABLE 1 under the category Certification Variances; therefore, subtracting the number of applications filed by employees under s. 142 from the Total number of applications disposed of in TABLE 3 will equal the number of applications disposed of in TABLE 1 for the Certification Cancellations category.

TABLE 4: Reconsiderations Disposed of in 2011

Type Of Application Being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Duty of Fair Representation (s. 12)	13	0	2	1	0	16
Duty of to Bargain in Food Faith (s. 11)	1	0	0	0	0	1
Other Unfair Labour Practice Complaint (ss. 5-9)	2	0	0	0	0	2
Certification	4	0	2	0	0	6
Partial Decertification	1	0	0	0	0	1
Declaration of Employer Successor Status	1	0	0	0	0	1
Common Employer	0	1	1	0	0	2
Essential Services Designation	1	0	0	0	0	1
Review of Arbitration Award	7	2	1	0	0	10
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	1	0	0	0	0	1
Ruling re: Procedure	3	0	0	0	0	3
Reconsideration of Duty of Fair Representation Complaint (s.12)	0	0	0	0	1	1
TOTAL	**34**	**3**	**6**	**1**	**1**	**45**

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Employer(s)	6	2	0	0	0	8
Union(s)	9	1	4	0	0	14
Employee(s)	19	0	2	1	1	23
TOTAL	**34**	**3**	**6**	**1**	**1**	**45**

Chart 4: Types of Applications Being Reconsidered (Disposed of in 2011)

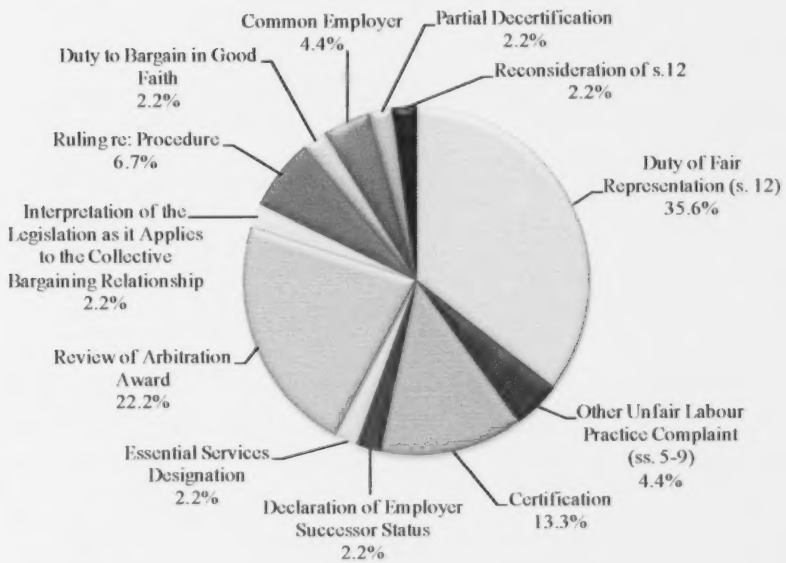
Common Employer 4.4%
Partial Decertification 2.2%
Duty to Bargain in Good Faith 2.2%
Reconsideration of s.12 2.2%
Ruling re: Procedure 6.7%
Duty of Fair Representation (s. 12) 35.6%
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship 2.2%
Review of Arbitration Award 22.2%
Other Unfair Labour Practice Complaint (ss. 5-9) 4.4%
Essential Services Designation 2.2%
Certification 13.3%
Declaration of Employer Successor Status 2.2%

TABLE 5: "Success" Rate of Reconsiderations Disposed of Between 2001 and 2011

Year	Total Applications Disposed of	Withdrawn / Not Proceeded With	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
2001	111	13	98	23	23%
2002	92	8	84	19	23%
2003	111	11	100	19	19%
2004	112	6	106	12	11%
2005	87	11	76	8	11%
2006	72	9	63	8	13%
2007	65	11	54	5	9%
2008	47	6	41	6	15%
2009	48	4	44	8	18%
2010	51	2	49	10	20%
2011	45	2	43	6	14%

TABLE 6: "Success" Rate of Reviews of Arbitration Awards Disposed of Between 2001 and 2011

Year	Total Applications Disposed of	Withdrawn / Not Proceeded With	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
2001	60	13	47	16	34%
2002	58	4	54	12	22%
2003	55	7	48	10	21%
2004	58	8	50	11	22%
2005	36	4	32	6	19%
2006	50	7	43	11	26%
2007	26	3	23	5	22%
2008	37	7	30	7	23%
2009	39	6	33	4	12%
2010	31	5	26	8	31%
2011	35	8	27	2	7%

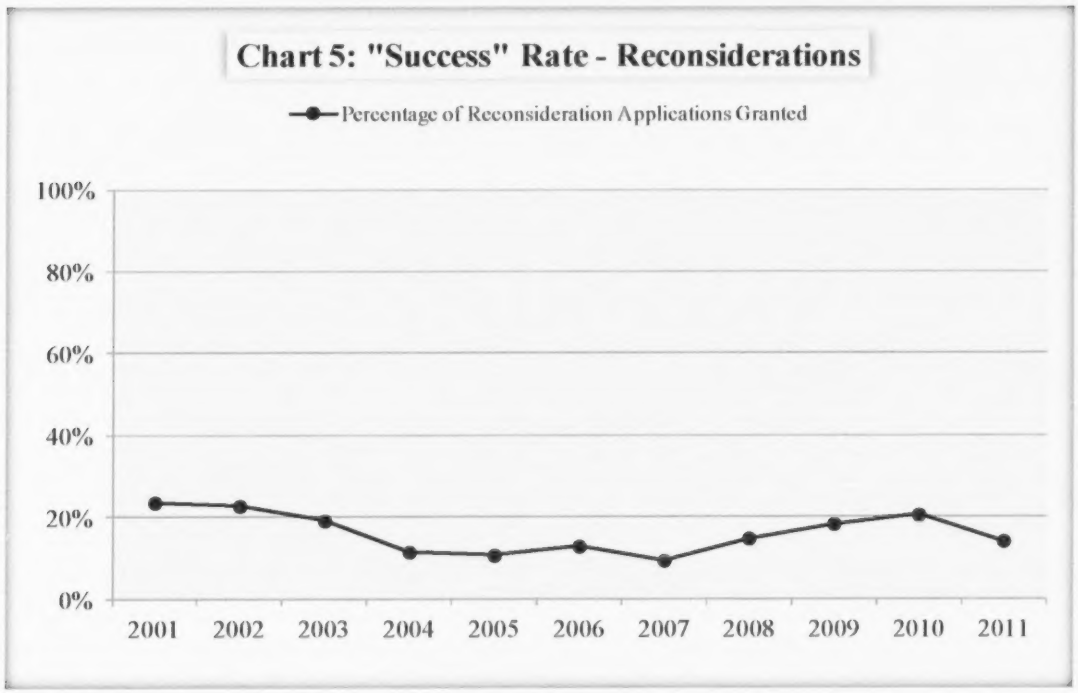
Chart 5: "Success" Rate - Reconsiderations
Percentage of Reconsideration Applications Granted
100%
80%
60%
40%
20%
0%
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011

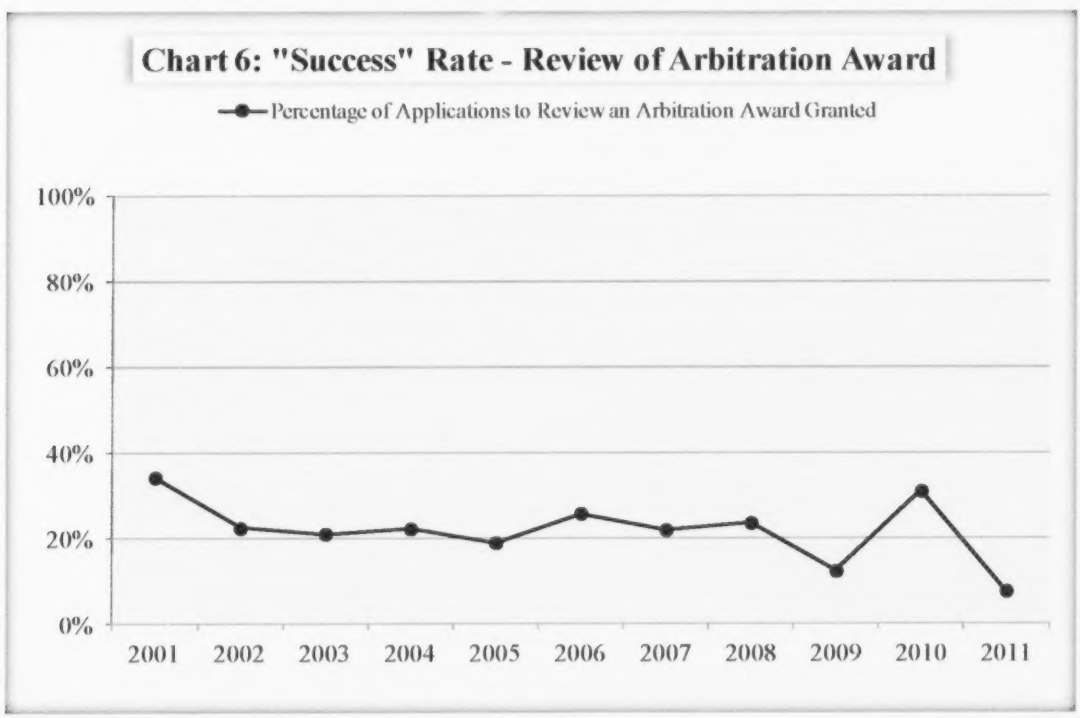
Chart 6: "Success" Rate - Review of Arbitration Award
Percentage of Applications to Review an Arbitration Award Granted
100%
80%
60%
40%
20%
0%
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011

TABLE 7: Applications and Complaints Filed in 2011 - Analyzed by Applicant Type

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs (s. 10)	0	0	2	0	2
Complaints Regarding Duty to Bargain in Good Faith (s. 11)	6	18	1	0	24
Complaints Regarding Duty of Fair Representation (s. 12)	4	0	62	0	66
Other Unfair Labour Practice Complaints (ss. 5-9)	3	117	9	0	124
Religious Exemption (s. 17)	0	0	5	0	5
Certification Applications (ss. 18, 19 and 28)	0	129	0	0	129
Certification Variances (ss. 28 and 142)	25	116	6	0	146
Certification Cancellations (ss. 33 and 142)	2	5	33	0	39
Cancellation of a Voluntary Recognition (s. 34)	0	0	4	0	4
Permission to Alter Conditions of Employment	0	0	0	0	0
Alleged Unlawful Alteration of Employment Terms and Conditions (ss. 32 and 45)	0	9	0	0	9
Declaration of Successor Status					
Successor Employer (s. 35)	5	56	0	0	61
Successor Union (s. 37)	0	28	0	0	28
Common Employer (s. 38)	1	19	0	0	20
Accreditation Variances (ss. 43 and 142)	5	0	0	0	5
Alleged Failure to Execute or Comply with a Collective Agreement (s. 49)	3	8	0	0	11
Facilitator (s. 53(3))	29	29	0	0	30
First Collective Agreement (s. 55)	3	4	0	0	7
Appointment of a Mediation Officer (s. 74)	46	59	0	0	102
Collective Agreement Arbitration Bureau (CAAB)					
Section 86 (Appointment of Arbitrator)	*2*	*51*	*0*	*0*	*53*
Section 87 (Appointment of Settlement Officer)	*2*	*30*	*0*	*0*	*32*
Section 104 (Appointment of Arbitrator)	*5*	*182*	*0*	*0*	*187*
Section 105 (Appointment of Mediator-Arbitrator)	*1*	*1*	*0*	*0*	*1*
Combined CAAB Sections	***10***	***264***	***0***	***0***	***273***
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss. 57-67 and ss. 69-70)	42	9	0	0	51

TABLE 7: Applications and Complaints Filed in 2011 - Analyzed by Applicant Type

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Replacement Workers (s. 68)	0	3	0	0	3
Essential Service Designations (s. 72)	0	0	0	204	204
Last Offer Vote (s. 78)	11	0	0	0	11
Review of Arbitration Award (s. 99)	8	16	15	0	39
Interim Order (s. 133(5))	2	0	0	0	2
File an Order in Supreme Court (s. 135)	17	3	1	0	21
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s. 139)	6	38	1	0	45
Reconsideration of a Decision (s. 141)	11	16	26	0	53
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation)	0	9	0	0	9
Miscellaneous	20	43	2	0	65
TOTAL	**259**	**998**	**167**	**204**	**1588**

[1] Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party.

TABLE 8: Time Required to Process Certain Applications Disposed of in 2011

Type of Application	Number of Applications Disposed of[1]	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under S.6 of the *Labour Relations Code* Where a Dismissed Employee is Involved	35	72	48.5
Complaints Regarding Duty of Fair Representation (S.12)	57	239	163.5
Certification Applications (Ss.18, 19, 28)	124	46	42.5
Certification Cancellations (S.33(2))	31	33	28.5
Declaration of Successor Employer (S.35)	49	70	30
Common Employer (S.38)	20	153	102
Review of Arbitration Award (S.99)	35	225	155
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (S.139)	35	166	123
Reconsideration of a Decision (S.141)	44	56	53

[1] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

TABLE 9: Officer Assignments Completed in 2011

Assignment Outcome							
Type of Application / Complaint	Settled/ Withdrawn	Resolved Issues / Assisted at Hearing	Narrowed Issues /Assisted at Hearing	To Adjudication (No Informal)	Report of Investigation	Other[1]	Total
Part V (ss.57 to 70)[2]	5	1	4	1	0	3	14
Unfair Labour Practice (ss.5 to 11)[3]	30	0	4	7	0	3	44
Certification & Variance to Expand the Bargaining Unit[4]	11	25	45	2	0	0	83
Decertification & "Partial Decertification"[5]	4	4	9	2	0	0	19
Collective Agreement Arbitration (CAAB) (ss.86, 87, 104, 105)[6]	28	0	3	0	0	17[7]	48
Other	13	0	8	9	7	1	38
TOTAL	**91**	**30**	**73**	**21**	**7**	**24**	**246**

[1] Includes Consent Order issued.
[2] Includes complaints regarding strikes, lockouts, picketing, etc.
[3] Excludes duty of fair representation (s.12)
[4] In reports prior to 2001, the number of certification & expanded bargaining unit applications Settled / Withdrawn were included in the Resolved Issues / Assisted at Hearing assignment outcome category.
[5] Prior to 2003 applications for 'partial decertification' were included under Other types of applications.
[6] Reporting of assignments under the Collective Agreement Arbitration provisions of the *Labour Relations Code* first appears in the 2003 annual report.
[7] Includes 12 assignments closed with matter proceeding to arbitration.

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously s. 8(4)(c) of the *Labour Relations Code* and the *Industrial Relations Act*)

Year	Requested	Granted
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
2000	21	1
2001	9	0
2002	12	3
2003	13	0
2004	8	1
2005	7	1
2006	8	0
2007	10	1
2008	17	2
2009	16	0
2010	18	1

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously s. 8(4)(c) of the *Labour Relations Code* and the *Industrial Relations Act*)

Year	Requested	Granted
2011	9	0
TOTAL	**747**	**42**

These requests relate to *Other Unfair Labour Practice Complaints* and are not included under Applications for Certification.
Note: Figures for 1993 to 1995 were not included in the Annual Reports for these years.

Chart 10: Requests for Automatic Certification Pursuant to s.14(4)(f) of the *Labour Relations Code* Filed and Granted

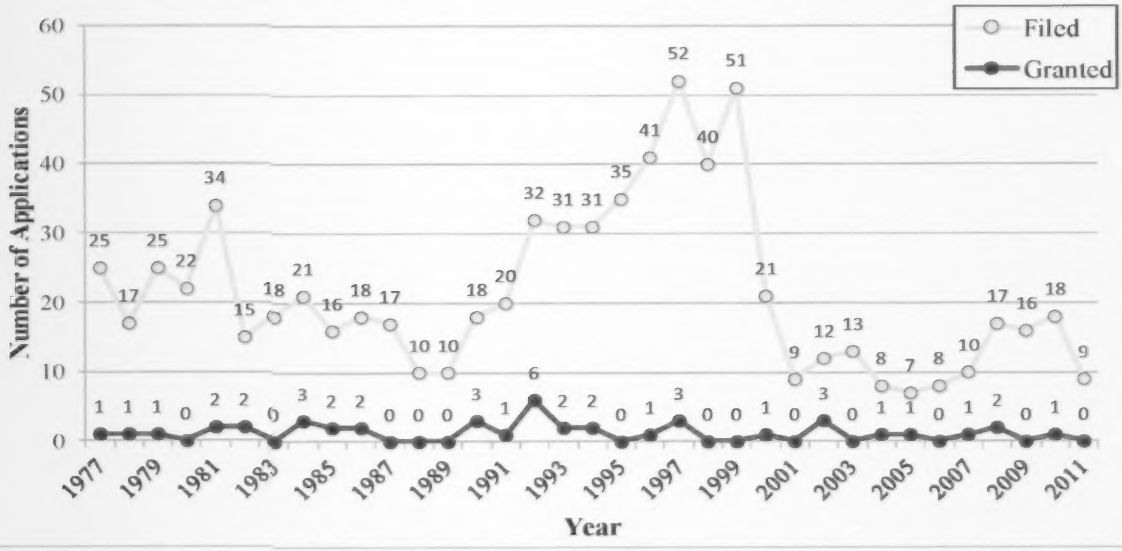

Table 11: Complaints Regarding Duty of Fair Representation Disposed of Between 2001 and 2011

Year	Total Applications Disposed of	Not Proceeded With	Settled	Processed to a Final Decision	Granted	Dismissed
2001	224	95	47	82	7	75
2002	186	62	35	89	1	88
2003	192	53	28	111	5	106
2004	132	40	13	79	8	71
2005	101	44	10	47	5	42
2006	99	34	9	56	1	55
2007	90	39	9	42	0	42
2008	70	29	7	34	2	32
2009	96	36	1	59	5	54
2010	82	26	5	51	5	46
2011	74	17	1	56	4	52